

a system for lowering the pipeline from adjacent the top to adjacent the bottom; and

a system for steering the pipeline along the pathway including at least one device for moving the member laterally of the axis.

#### Remarks

The Official Office Action of February 7, 2005, and the references therein made of record have been carefully considered. Applicant has renumbered originally submitted claims 16-25 and has amended claims which depend on claim 14 to correct their dependency. Applicant apologizes for the inconvenience.

The Examiner has objected to claims 8, 11, 12, 17 and 20-22 as depending from a rejected claim. Applicant has amended claim 11 and placed it in independent form, meaning that claim 11 and its dependent claim 12 should be allowable.

The Examiner has rejected claims 14-16, 18 and 19 as fully met by Japanese Patent 60-5905. Applicant has amended independent claim 14 in two respects: (1) by adding the step of digging an open ditch and (2) adding the step of supporting the lower end of the pipeline directly on the bottom of the ditch. The Examiner will recognize that claim 14 is accordingly analogous to independent claim 1, the merits of which will be discussed hereinafter.

The Examiner has rejected claim 24 as being fully met by Strosnider. Applicant has amended claim 24 which is now analogous to allowed claim 11 and should be allowable for the same reasons.

The Examiner has rejected most of the claims in this application as unpatentable over Japanese Patent #60-5905 in view of Wilson based on the following rationale:

Japan '905 discloses the claimed invention except for the incline having an upwardly open ditch. Wilson teaches that it is known to place a pipeline 10 in an upwardly open ditch 12 on inclined terrain as set forth at column 5, lines 35-37. It would have been obvious to one having ordinary skill in the art at the time the invention was made to lay the pipeline in an upwardly open ditch, as taught by Wilson in order to facilitate laying and burying of a pipeline on inclined terrain.

Applicant controverts this rejection for the following reasons.

Japan '905 discloses laying a penstock in a tunnel. A penstock tunnel is a vertical or inclined passageway in or around a dam that delivers water from a reservoir behind the dam to turbines inside the power house for generating electricity. The penstock tunnel is accordingly a closed passageway inside or around a dam. Applicant does not have an English language translation of Japan '905, but so far as can be discerned, there is nothing in Japan '905 that suggests using the technique disclosed therein in open air pipeline operations.

Given the idea that one wants to place a pipeline in a penstock, how would one go about it? Would you push the pipe up

from the bottom or would you lower it from the top? It will be understood that conventional pipeline construction techniques are not suitable for laying pipeline in a penstock tunnel because there is no room inside the tunnel laterally of the pipeline to accommodate normal pipeline laying equipment. If normal open air pipeline construction techniques are not applicable for laying pipe in a penstock tunnel, why would a technique for laying pipe in a tunnel be applicable for laying pipeline in open terrain? Applicant can see no reason except for applicant's disclosure.

Wilson discloses what is called a retard, i.e. a device for retarding water movement in an inclined pipeline to minimize erosion of backfill in the ditch. The retards 16, 17, 18 are built by spraying a foam into the gap between the pipeline and the ditch after the pipe is placed in the ditch and before the ditch is backfilled. For all practical purposes, Wilson is no more pertinent than the description of the prior art in applicant's specification beginning on page 2, line 1. Wilson's retards are clearly not bearings for supporting the pipeline. The retards minimize erosion of the ditch by retarding the flow of water down an inclined ditch.

The Examiner's rationale for a combination of Japan '905 and Wilson is that it would "facilitate laying and burying of a pipeline on an inclined terrain." How does the Examiner know this?

In effect, Japan '905 has no choice but to lower pipe from the top of the penstock unless one would think it easier to push pipe up from the bottom. It is submitted that the rationale for the combination of Japan '905 and Wilson is found in applicant's disclosure. It is accordingly submitted that the combination of Japan '905 and Wilson is incorrect, an overextension of the teachings thereof for which there is no rationale and is not sustainable. Accordingly, it is submitted that claims 1-24 are allowable over the prior art.

Even if the combination of Japan '905 and Wilson were correct, independent claims 1, 14, 16 and 24 and many of the dependent claims are allowable over the combination. Amended claims 1, 14 and 16 recite, in somewhat different terms, that the pipeline includes a load bearing assembly on the lower end thereof which bears directly on the bottom of the ditch. Japan '905 doesn't work this way. Instead, the rails 3 are laid inside the penstock tunnel and the pipeline is supported on the rails. Where is the suggestion, for open air operations, for one to eliminate the rails 3 and support the lower end of the pipeline directly on the ground?

The Examiner will accordingly recognize that independent claims 1, 14 and 16 and their dependent claims are allowable over any combination of Japan '905 and Wilson.

In addition, many of the dependent claims are allowable over a combination of Japan '905 and Wilson. For example, claim 3 recites:

. . . placing a series of stationary, non-rotatable bearings in the ditch supporting a section of the pipeline above a bottom of the ditch, the bearings being spaced apart along a length direction of the ditch, and sliding the pipeline on the bearings.

Japan '905 doesn't work this way at all. Japan '905 shows placing rails 3 in the penstock running along the length of the ditch. Why would the Examiner think it would be obvious to put spaced stationary bearings in the ditch and sliding the pipeline on the bearings? Wilson's retards are clearly not for this purpose.

Similarly, the limitations of claims 4-6 are not found in Japan '905 or in Wilson and are allowable independently of the combination of Japan '905 and Wilson, assuming that the combination is correct.

It is accordingly submitted that claims 1-24 are allowable over the art of record and early steps toward that end are earnestly solicited.

Respectfully submitted,



G. Turner Moller  
Registration 22,978

711 N. Carancahua, Suite 720  
Corpus Christi, Texas 78475  
361/883-7257  
February 25, 2005